

## **IC 32-30-2**

### **Chapter 2. Ejectment and Quiet Title**

#### **IC 32-30-2-1**

##### **Action to recover real property from tenant; other persons**

Sec. 1. A person having a valid subsisting interest in real property and a right to the possession of the real property may recover the real property and take possession by an action brought against the tenant in possession or, if there is not a tenant, against the person claiming the title or interest in the real property.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-2-2**

##### **Landlord substituted as defendant in action to recover real property from tenant**

Sec. 2. If it appears in an action brought under section 1 of this chapter that the defendant is only a tenant, the landlord may be substituted as the defendant if the landlord has received reasonable notice.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-2-3**

##### **Legal service on nonresident defendant**

Sec. 3. Legal service on a defendant who is a nonresident:

- (1) is considered served on the defendant if the service is made to the defendant's agent for the property and the defendant's agent resides in Indiana; or
- (2) may be had by publication, as in other cases.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-2-4**

##### **Contents of complaint**

Sec. 4. In an action initiated under section 1 of this chapter, the plaintiff's complaint must contain the following information:

- (1) A claim that the plaintiff is entitled to the possession of the premises, including a description of the premises.
- (2) The interest the plaintiff claims in the premises.
- (3) That the defendant unlawfully keeps the plaintiff from possession of the premises.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-2-5**

##### **Answer to complaint; denials**

Sec. 5. The answer of the defendant to a complaint under section 4 of this chapter may contain a denial of each material statement or allegation in the plaintiff's complaint. With each denial, the defendant may give in evidence every legal or equitable defense to the action that the defendant may have.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-6****Defendant not required to prove possession**

Sec. 6. The defendant is not required to prove the defendant is in possession of the premises to make a defense under this chapter.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-7****Recovery for use and occupation; recovery limitation**

Sec. 7. The plaintiff may recover in an action under this chapter for the use and occupation of the premises up to the time the use or occupation is terminated by the defendant. However, the plaintiff may not recover for the use and occupation of the premises for more than six (6) years before the commencement of the action.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-8****Expiration of plaintiff's interest; damages only**

Sec. 8. If the plaintiff's interest in the premises expires before the time in which the plaintiff could be put in possession of the premises, the plaintiff may obtain only a judgment for damages.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-9****Multiple parties; recovery**

Sec. 9. If there are two (2) or more plaintiffs or defendants, one (1) or more of the plaintiffs may recover against one (1) or more of the defendants:

- (1) the premises or any part of the premises;
- (2) an interest in the premises; or
- (3) damages;

according to the right of the parties, but the recovery may not be for an interest greater than the interest claimed by the party.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-10****Petition for new trial**

Sec. 10. A petition for a new trial under this chapter may be made by the party against whom judgment is rendered, or the party's heirs, assigns, or personal representatives, under the same restrictions and on the same grounds as allowed in other civil actions.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-11****Petition for new trial; filing**

Sec. 11. The petition for a new trial must be filed at the time provided for the filing of petitions for a new trial in other civil actions.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-12**

**Third persons acquiring interest during proceedings**

Sec. 12. Third persons acquiring an interest in the subject matter of the action during the pendency of the proceedings initiated under this chapter shall take their interests subject to the final result of the proceedings.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-13****Recovery from good faith purchaser after new trial**

Sec. 13. A party who, after a new trial, proves that the party is entitled to the premises that have been transferred in good faith to a purchaser may recover the proper amount of damages against the other party, either in the same action or in a subsequent action.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-14****Judgment conclusive evidence against landlord receiving notice**

Sec. 14. In an action against a tenant under this chapter, the judgment is conclusive evidence against the landlord who has received notice under section 2 of this chapter.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-15****Plaintiff's recovery dependent upon strength of plaintiff's own title**

Sec. 15. To recover through an action brought under this chapter, the plaintiff must recover on the strength of the plaintiff's own title.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-16****Order allowing entry to survey; motion; notice; hearing**

Sec. 16. After:

- (1) the plaintiff has filed a motion with the court;
- (2) notice has been delivered to the defendant; and
- (3) a hearing at which the plaintiff has shown cause;

the court may grant an order allowing the plaintiff to enter upon the property in controversy and make a survey and admeasurement of the property for purposes of an action under this chapter.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-17****Entry order; description of property; service upon owner or occupant**

Sec. 17. An order issued by a court under section 16 of this chapter must describe the property. A copy of the court order must be served upon the owner or person having occupancy and control of the property.

*As added by P.L.2-2002, SEC.15.*

**IC 32-30-2-18****Damages; set off**

Sec. 18. If a plaintiff in an action under this chapter is entitled to damages for withholding, using, or injuring the plaintiff's property, the defendant may set off the value of any permanent improvements made to the property to the extent of the damages, unless the defendant prefers to use the law for the benefit of occupying defendants.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-2-19**

#### **Defendant's wanton aggression; exemplary damages**

Sec. 19. If a defendant has demonstrated wanton aggression concerning the property that is subject to an action under this chapter, the jury may award the plaintiff exemplary damages.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-2-20**

#### **Action to determine and quiet title; plaintiffs**

Sec. 20. An action to determine and quiet a question of title to property may be brought by a plaintiff who:

- (1) is in possession of the property;
- (2) is out of possession of the property; or
- (3) has a remainder or reversion interest in the property;

against a defendant who claims title to or an interest in the real property with a claim that is adverse to the plaintiff, even if the defendant is not in possession of the property.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-2-21**

#### **Application**

Sec. 21. This chapter applies, as far as applicable, to:

- (1) cases and partition cases where the title to real estate is a genuine question; and
- (2) the pleadings and evidence between parties concerning questions of title to real estate.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-2-22**

#### **Defendant's answer; court costs**

Sec. 22. If the defendant's answer to a complaint under this chapter disclaims any interest or estate in the property, or if the defendant does not answer the complaint and the court issues a default judgment against the defendant, the defendant may not be required to pay the plaintiff's court costs.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-2-23**

#### **Action against cotenant; plaintiff's evidentiary burden**

Sec. 23. In an action by a plaintiff who is a tenant in common or joint tenant of real property against the plaintiff's cotenant, the plaintiff must show, in addition to the plaintiff's evidence of right,

that defendant:

(1) denied plaintiff's right; or

(2) did some act amounting to a denial of a plaintiff's right.

*As added by P.L.2-2002, SEC.15.*